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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,971	02/17/2004	Tadao Hashimoto	13195Z	9122
23389	7590	11/14/2006	EXAMINER	
SCULLY SCOTT MURPHY & PRESSER, PC 400 GARDEN CITY PLAZA SUITE 300 GARDEN CITY, NY 11530			TRINH, SONNY	
			ART UNIT	PAPER NUMBER
			2618	

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/779,971	<b>Applicant(s)</b> HASHIMOTO, TADAO	
	<b>Examiner</b> Sonny TRINH	<b>Art Unit</b> 2618	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☒ Claim(s) 16 and 17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This Office action is in response to the amendment filed 08/24/06. Claims 1-17 are pending (claims 16-17 are newly added).

#### ***Specification***

2. Claims 4-5, 9-10, 14-15 are objected to because of the following informalities: the term "case station" at the end of claims 4-5, 9-10, 14-15 should be changed to --"base station"--. Appropriate correction is required.

#### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1-15 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Claim Rejections - 35 USC § 102***

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. **Claims 1-15** are rejected under 35 U.S.C. 102(e) as being anticipated by Tanoue ("Tanoue"; Patent No. 6,041,238)

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Regarding **claim 1**, Tanoue teaches a personal handy phone system performing radio connection (columns 2-3, specifically lines 50-55 of column 2, figure 1) using a time division multiple access time division duplex system (column 2 lines 1-33) comprising:

a mobile station including means for performing carrier sensing of a communication frequency designated by a base station and a reception slot (figure 4, carrier sense at transmit timing T3 and carrier sense at receive timing R3, see description in column 4);

means for performing carrier sensing of a transmission slot prior to transmission of a signal to avoid collision wherein if the transmission slot is in use, the mobile station requests a different transmission slot assignment and a signal that was already in transit in said transmission slot is not stopped (claims 1-3).

Regarding **claim 2**, Tanoue further discloses the means for initiating communication when non use is judged in both carrier sensing (claim 1, step f, claims 5, 8).

Regarding **claim 3**, Tanoue further discloses the means for initiating communication when non use is judged in both carrier sensing (claim 1, step f, claims 5, 8, column 2 lines 5-33), and furthermore discloses that in carrier sensing of said reception slot and carrier sensing of said transmission slot, setting of reception electric field level as judgment condition of non use is provided individually to perform carrier sensing on the basis of each of said reception electric field levels (figure 2, column 3 line 8 to column 4 line 51).

Regarding **claim 4**, Tanoue further discloses the means for initiating communication when non use is judged in both carrier sensing;

setting means for modifying and setting said reception electric field level as non use judgment condition in carrier sensing (claim 1, step f, claims 5, 8, column 2 lines 5-33), and further discloses that the setting means setting said reception electric field level as non use judgment condition at an appropriate value corresponding to a reception electric field level of a control frequency and a control slot from said base station (figure 3, column 3 line 22-38).

Regarding **claim 5**, Tanoue further discloses the means for initiating communication when non use is judged in both carrier sensing (claim 1, step f, claims 5, 8, column 2 lines 5-33); the setting means for modifying and setting said reception electric field level as non use judgment condition in carrier sensing (figure 2, see

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description), in carrier sensing of said reception slot and carrier sensing of said transmission slot, setting of reception electric field level as judgment condition of non use is provided individually to perform carrier sensing on the basis of each of said reception electric field levels (column 3 lines 21 to column 4 line 27), and furthermore discloses the setting means for modifying and setting said reception electric field level as non use judgment condition in carrier sensing, said setting means setting said reception electric field level as non use judgment condition at an appropriate value corresponding to a reception electric field level of a control frequency and a control slot from said base station (figures 2-3, column 3 line 7 to column 4 line 51).

**Claims 6-10** are the method claim as opposed to the system claim of claims 1-5 and are therefore rejected for the same reasons.

**Claims 11-15** are the apparatus claim as opposed to the system claim of claims 1-5 and are therefore rejected for the same reasons.

***Allowable Subject Matter***

5. **Claims 16-17** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding **claims 16-17** the applied references fail to disclose or render obvious the claimed limitations of the carrier sensing method as set forth in claim 6, wherein said carrier sensing is performed by measuring a reception electric field at

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one or more carrier sensing points of the reception and transmission slot nor wherein said one or more carrier sensing points are a front, a center and a rear end of said reception and transmission slot.


### CONCLUSION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sonny TRINH whose telephone number is 571-272-7927. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward URBAN can be reached on 571-272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

11/9/06

  
SONNY TRINH  
PRIMARY EXAMINER